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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

LINDA L. OLIVER  
COUNSEL  
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November 29, 1994

DOCKET FILE COPY ORIGINAL

*BY HAND DELIVERY*

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Notice of Ex Parte Communication in PR Docket  
Nos. 94-105 and 94-106 ✓

Dear Mr. Caton:

On November 29, 1994, on behalf of LDDS Metromedia, Catherine R. Sloan (Vice President, Federal Affairs, LDDS) and I met with Regina Harrison, Michael Wack, Julia Kogan, and Doron Fertig of the Private Radio Bureau to discuss the referenced proceeding.

The purpose of the meeting was to discuss the value and importance of resale of telecommunications services generally and of cellular services in particular. LDDS also discussed the value of establishing a wholesale rate that is lower than the retail rate, to reflect the retail-related costs that are avoided by providing service on a wholesale basis. LDDS did not take a position with respect to the merits of the California Public Utilities Commission petition or the Connecticut Department of Public Utility Control petition, except insofar as the petitions implicate resale issues. The attached handout was used in our discussion.

Mr. William F. Caton  
November 29, 1994  
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I have hereby submitted two copies of this notice for each of the referenced proceedings to the Secretary, as required by the Commission's rules. Please return a date-stamped copy of the enclosed (copy provided).

Please contact the undersigned if you have any questions.

Respectfully submitted,

A handwritten signature in cursive script, reading "Linda Z. Oliver".

Linda Oliver  
Counsel for  
LDDS Communications, Inc.

**Enclosures**

cc: Regina Harrison  
Michael Wack  
Julia Kogan  
Doron Fertig

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**FEDERAL COMMUNICATIONS COMMISSION  
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**Ex Parte Presentation Of  
LDDS Communications, Inc.  
PR Docket Nos. 94-105 and 94-106  
November 29, 1994**

**THE COMMISSION MUST NOT FORECLOSE  
THE ABILITY OF REGULATORS TO PROMOTE RESALE**

**I. RESALE OF TELECOMMUNICATIONS SERVICE HAS MANY PUBLIC INTEREST AND PRO-COMPETITIVE BENEFITS.**

- A. Resale makes it possible to provide wide-area service while building out a facilities-based network, and thus to bring service to market much faster.
  - \* Resale of AT&T's MTS and WATS services, for example, made possible the development of long distance competition.
  - \* Today's long distance microwave and fiber-based networks continue to be based on a mix of resold and owned facilities.
- B. Resale helps to drive rates to cost, by allowing arbitragers to offer discounts that exploit the underlying carrier's non-cost-based rates. Thus, resale is a market-based supplement to regulation.
- C. Resale expands the number of potential service providers. Again, the long distance marketplace is an excellent example of how resale can produce a diversity of service providers.
- D. Resale of local service -- whether wireless or wireline -- will make it possible for a greater number of service providers to compete in the provision of full-service packages. MCI and Time-Warner, for example, have announced their intention to participate in the wireless market by reselling cellular services in combination with other services they already provide.

**II. UNRESTRICTED RESALE OF TELECOMMUNICATIONS SERVICES IS A FUNDAMENTAL PRINCIPLE OF COMMON CARRIER LAW.**

- A. The Commission itself consistently has required unrestricted resale of all telecommunications services, including wireless services.
- B. The Commission also has recognized the public interest and pro-competitive benefits of resale.

**III. MARKET FORCES DO NOT NECESSARILY ENSURE THAT RESALE WILL BE POSSIBLE AS A PRACTICAL MATTER.**

- A. Resale must be a practical, as well as a theoretical, option.
- B. Facilities-based providers often have incentives to discourage resale of their services.
- C. Resale restrictions have taken many forms in the past, including geographic restrictions and restrictions on the availability of volume discounted services for resale.
- D. Even after PCS systems are built, and there are multiple facilities-based wireless providers, there still will be a need to protect the availability of wireless services for resale.

**IV. THE STRUCTURE AND PRICING OF SERVICES THAT ARE AVAILABLE TO RESELLERS CAN BE A PRACTICAL BARRIER TO RESALE.**

- A. Resellers should not be required to pay for costs that they do not cause.
- B. A wholesale/retail rate structure can be an excellent mechanism for ensuring that resale is a viable option.
- C. The Rochester Telephone Company, for example, has established a wholesale/retail rate structure for all of its local telecommunications services, including residential telephone services.
  - \* The wholesale rate is five percent below the retail rate for every service, to reflect the marketing and customer support costs avoided by Rochester when it provides wholesale services.
  - \* The New York Public Service Commission recently approved Rochester's plan.

**V. THE COMMISSION SHOULD NOT FORECLOSE THE ABILITY OF REGULATORS TO PROMOTE RESALE OF WIRELESS SERVICES.**

- A. LDDS is not asking the Commission to impose a Rochester-type wholesale/retail structure on cellular service providers today.
- B. LDDS also does not take a position with respect to California's or Connecticut's particular approaches to creation of opportunities for resale.
- C. Rather, LDDS urges the Commission to preserve its authority, and that of the states, to put in place the protections that may be necessary to ensure that meaningful opportunities for resale exist.
- D. Therefore, when the Commission acts on the California and Connecticut petitions to continue regulation of cellular rates, it should do so without prejudice to the principle of protecting the practical ability of all service providers to engage in resale of wireless as well as wireline service.